

Seattle District Corps of Engineers
Regulated “fill” activities under Section 404 of the Clean Water Act

	Fill (in Section 404 waters)	Not Fill * (in Section 404 waters)
Materials in shaded area are per the definition of fill effective June 10, 2002	Rock	Trash or garbage– unless it is used for environmentally beneficial purposes (e.g., using porcelain toilets to create an artificial reef) (Note: any pollutant discharged primarily to dispose of waste is regulated under Section 402 by EPA)
	Sand	
	Soil	
	Clay	
	Plastics	
	Construction debris	
	Wood chips (hogfuel)	
	Overburden from mining or other excavation activities	
Materials in non-shaded areas are how the Seattle District has regulated work in Section 404 jurisdiction (This in addition to the materials described in the shaded area is the currently applicable definition of fill for the Seattle District pending Division guidance.)	Large woody debris with backfill below and waterward of OHW/MHHW (e.g. backfill needed to anchor logs into bank) NOTE: if the backfill is part of an exempt activity (e.g. maintenance of a damaged riprap) the installation of large woody debris is not considered fill and no permit would be required to install the large woody debris	Large woody debris without any backfill below and waterward of OHW/MHHW
		Ecology blocks or Jersey barriers (pre-cast concrete blocks)
		Hay bales
	Sheet piling with backfill	Sheet piling without backfill
	Piling so closely spaced such that sedimentation rates would be increased; piling which would effectively replace the bottom of the waterbody; piling which reduce the reach or impair the flow or circulation; piling which would result in adverse alternation or elimination of aquatic functions (33 CFR 323.3(c))	Piling for a structure typically supported by piling (e.g., piers, bridges, overhead utility lines, individual house on stilts)
	Fill associated with landfill construction (e.g. berms and roads)	
		Silt fences and associated fill
	Poured in place anchors (e.g., anchors for a marine railway)	Pre-cast concrete anchors (e.g., for buoys)
	Poured in place or pre-cast boat ramps with backfill	Pre-cast boat ramps without backfill
	Sandbags or gravel bags (Note: sandbags or gravel bags placed	

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	temporarily for maintenance work under the 404 exemptions, are included in the exemption)	
	Geotubes (e.g. sand or gravel filled plastic tube)	Water filled tubes or bladders

*All of these activities in this column would be regulated under Section 10 jurisdiction if in a navigable water

Note: Mechanical land clearing, grading, and “scalping” are regulated as discharge of “dredge” material.

References

Revised definitions of “Fill Material” and “Discharge of Fill Material” (33 CFR Part 323) are as follows (June 10, 2002 revisions in italics):

Section 323.2(e)

(1) *Except as specified in paragraph (e)(3) of this section, the term fill material means material placed in waters of the United States where the material has the effect of:*

(i) Replacing *any portion of a water of the United States* with dry land; or

(ii) Changing the bottom elevation of *any portion of a water of the United States*.

(2) *Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States.*

(3) *The term fill material does not include trash or garbage.*

Section 323.2(f)

The term “discharge of fill material” means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities; Placement of fill that is necessary for the construction of any structure *or infrastructure* in a water of the United States; the building of any structure *or infrastructure* or impoundment requiring rock, sand, dirt, or other material for its construction; site development fills for recreational, industrial, commercial, residential, *or* other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities; intake and outfall pipes associated with power plants and sub aqueous utility lines; *placement of fill material for construction or maintenance of any liner, berm, or other infrastructure associated with solid waste landfills; placement of overburden, slurry, or tailings or similar mining-related materials;* and artificial reefs. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products (See Section 323.4 for the definition of these terms).